

State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 11/13/2008 (Per: PG)





Appendix A

 The 2009 drafting file for LRB-0610/1

has been copied/added to the drafting file for

2009 LRB-0777

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

2009 DRAFTING REQUEST**Bill**

Received: 10/29/2008

Received By: pgrant

Wanted: As time permits

Identical to LRB:

For: Transportation 266-0179

By/Representing: Karen Baetsen

This file may be shown to any legislator: NO

Drafter: pgrant

May Contact:

Addl. Drafters:

Subject: Eminent Domain - reloc. benefits

Extra Copies: ARG

Submit via email: YES

Requester's email: karen.baetsen@dot.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Appeal of a denied relocation benefits claim

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 10/30/2008	kfollett 11/04/2008		_____			
/1			mduchek 11/04/2008	_____	lparisi 11/04/2008		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 10/29/2008

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

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/?	pgrant						

FE Sent For:

<END>

Gary, Aaron

From: Baetsen, Karen [karen.baetsen@dot.state.wi.us]
Sent: Friday, October 24, 2008 6:10 PM
To: Gary, Aaron
Cc: Hammer, Paul; Kuecker, Karl; Nilsen, Paul
Subject: DOT budget request for drafting -- Real Estate

Importance: High

Attachments: Re-location claim.doc; good faith negotiations.doc

use best format



Re-location
claim.doc (30 KB)



good faith
negotiations.doc (3..

Hi Aaron:

The DOT biennial budget request this fall will include a request to make 2 distinct statutory language changes that affect the DOT real estate program. We would like each request drafted separately, as one or both or none could be included in the Governor's Budget.

1. Establish a timeline for citizens to appeal a denied relocation claim

If a citizen files a relocation claim with DOT, the Department must act in some manner within 90 days. If the claim is denied, this decision may be appealed but there is no time limitation within which the citizen must file the appeal. Since the statutes are silent in this manner, the citizen could file an appeal many years after the DOT denial. DOT request establishment of an appeal timeline limitation.

<<Re-location claim.doc>>

2. Modifications to the property acquisition process

Several modifications are requested:

- * Timely sharing of property appraisal report with other party, failure to do so bars submission of such report in subsequent litigation.
- * After DOT has acquired property, eliminate the right of the previous owner to appeal the compensation award during the initial 6 months after DOT acquisition.
- * Clarify the definition of "reasonable litigation attorney costs" that are reimbursable.

<<good faith negotiations.doc>>
thanks again! -- Karen

Karen Baetsen
Department of Transportation
Office of Policy, Budget and Finance
Room 132B Hill Farms
608/ 266-0179
karen.baetsen@dot.state.wi.us

**Department of Transportation
2009-11 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER:

TOPIC: Establishing a timeframe to appeal denied relocation claims

DESCRIPTION OF CHANGE:

Currently, anyone displaced by a public project will be fairly compensated for the property acquired and any relocation costs incurred such as moving expenses and replacement housing. Under s. 32.20 Wis. Stats. (procedure for collection of itemized items of compensation), claims for reimbursement of relocation costs must be submitted to the Department no later than two years after being displaced. If a claim (or part of a claim) is denied or not acted upon within 90 days of being submitted, the claimant may appeal through litigation. The claimant may also first petition the Department of Commerce under 32.26(5) Wis. Stats in an attempt to negotiate an acceptable solution before starting litigation. However, in both cases there is no time limit in which to file the appeal.

The request amends s. 32.20 Wis. Stats. to establish a two-year time limit in which to appeal. It would start from the time of denial, passage of 90 days, or failure to negotiate a settlement through the Department of Commerce. The deadline would provide a reasonable amount of time for a claimant to decide on whether to take legal action.

JUSTIFICATION:

This change provides a logical time period to file an appeal against a denied a relocation claim. It would be consistent with the time limit requirements of two years for land acquisition appeals (s. 32.05(3)(i) Wis. Stats.) and three years for retention of relocation records (s. 32.27(1) Wis. Stats.). If later than three years, it may be difficult to reconstruct the actual events because the corresponding paperwork and Department staff familiar with the situation may no longer be around.

BILL

Date (time)
needed

soon

LRB - 0610 / 1

PG: kjf:

Agency budget

DN

Use the appropriate components and routines developed for bills.

Gen

AN ACT . . . [generate catalog] **to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .** of the statutes; relating to: commencement of an action against a condemnor who has disallowed a claim for relocation benefits. (1)

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

(attached)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

Section #. 32.20 of the statutes is amended to read:

32.20 Procedure for collection of itemized items of compensation. Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the condemnor carrying on the project through which condemnnee's or claimant's claims arise. All such claims must be filed after the damages upon which they are based have fully materialized but not later than 2 years after the condemnor takes physical possession of the entire property acquired or such other event as determined by the department of commerce by rule. If such claim is not allowed within 90 days after the filing thereof, the claimant has a right of action against the condemnor carrying on the project through which the claim arises. Such action shall be commenced in a court of record in the county wherein the damages occurred. In causes of action, involving any state commission, board or other agency, excluding counties, the sum recovered by the claimant shall be paid out of any funds appropriated to such condemning agency. Any judgment shall be appealable by either party and any amount recovered by the body against which the claim was filed, arising from costs, counterclaims, punitive damages or otherwise may be used as an offset to any amount owed by it to the claimant, or may be collected in the same manner and form as any other judgment.

History: 1977 c. 29 s. 1654 (8) (c); 1981 c. 249; 1987 a. 399; 1995 a. 27 ss. 1724, 9116 (5).

(not later than 2 years after the condemnor disallows the claim, not later than 2 years after the expiration of the 90-day period if the condemnor fails to disallow the claim within that period, or not later than 2 years after the expiration of the 90-day period under s. 32.26(5) if the department of commerce has attempted and failed to negotiate an acceptable solution under that section, whichever occurs later

2005

Nonstat File Sequence: **E E E**

LRB _____/____

_____:_____:____

INITIAL APPLICABILITY

-
1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
 2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.
-

SECTION # [93 5 7] . **Initial applicability;** other

.....
(#1) () CONDEMNATION; APPEAL OF DENIED CLAIM
FOR DAMAGES..... The treatment of sections / ..
32.20.....

..... of the statutes recorded
first applies to a conveyance of property to a condemnor that is recorded
on the effective date of this subsection.....

(End)

-
1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
 2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.
-

SECTION # . **Initial applicability;**

.....
(#1) () This act first
applies to

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

ANALYSIS

(B) EMINENT DOMAIN

the acquisition of property
by an entity that is vested
with the power of

Currently, a person displaced by condemnation
is entitled to certain benefits from the condemnor,
moving expenses. The person must file a
claim ^{for} such benefits ~~with the condemnor~~
within two years of being displaced. If the
claim is ~~denied or not acted upon~~ ^{not allowed} within 90
days, the claimant may file an appeal in circuit
court. ^{Currently,} there is no deadline for filing an
appeal.

This bill provides that the claimant
must file the appeal within two years.

including relocation assistance, assistance in the
acquisition of replacement housing, and

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

(DN)

Date

LRB-0610/1dn

PG:lgf

Karen:

1. I added "...whichever occurs later" because it looks like the displaced person ^{may} petition the Department of Commerce under s. 32.26[✓] (5) before filing a claim under s. 32.20[✓], ~~May be or the~~ ~~dis~~ after filing a claim but before the condemnor acts on the claim, ~~May be or~~ ~~the~~ ~~dis~~ or after the condemnor dismisses the claim. Is that correct? If it is, does the coded language work?

2. ~~Also~~ Please note the initial applicability provision. OK?

3. I did not include a state or local fiscal estimate tag. Do you think that this bill would increase ^{or} decrease state ^{or} local government fiscal liability ^{or} revenue?

PG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0610/1dn
PG:kjf:md

November 4, 2008

Karen:

1. I added "... whichever occurs later" because it looks like the displaced person may petition the Department of Commerce under s. 32.26 (5) before filing a claim under s. 32.20, after filing a claim but before the condemnor acts on the claim, or after the condemnor dismisses the claim. Is that correct? If it is, does the added language work?
2. Please note the initial applicability provision. OK?
3. I did not include a state or local fiscal estimate tag. Do you think that this bill would increase or decrease state or local government fiscal liability or revenue?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0610/1
PG:kjf:md

2009 BILL

1 **AN ACT ...; relating to:** commencement of an action against a condemnor who has
2 disallowed a claim for relocation benefits.

Analysis by the Legislative Reference Bureau

EMINENT DOMAIN

Currently, a person displaced by the acquisition of property by an entity that is vested with the power of condemnation is entitled to certain benefits from the condemnor, including relocation assistance, assistance in the acquisition of replacement housing, and moving expenses. The person must file a claim for such benefits within two years of being displaced. If the claim is not allowed within 90 days, the claimant may file an appeal in circuit court. Currently, there is no deadline for filing an appeal.

This bill provides that the claimant must file the appeal within two years.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 32.20 of the statutes is amended to read:

4 **32.20 Procedure for collection of itemized items of compensation.**

5 Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the

BILL**SECTION 1**

1 condemnor carrying on the project through which condemnee's or claimant's claims
2 arise. All such claims must be filed after the damages upon which they are based
3 have fully materialized but not later than 2 years after the condemnor takes physical
4 possession of the entire property acquired or such other event as determined by the
5 department of commerce by rule. If such claim is not allowed within 90 days after
6 the filing thereof, the claimant has a right of action against the condemnor carrying
7 on the project through which the claim arises. Such action shall be commenced in
8 a court of record in the county wherein the damages occurred not later than 2 years
9 after the condemnor disallows the claim, not later than 2 years after the expiration
10 of the 90-day period if the condemnor fails to disallow the claim within that period,
11 or not later than 2 years after the expiration of the 90-day period under s. 32.26 (5)
12 if the department of commerce has attempted and failed to negotiate an acceptable
13 solution under that section, whichever occurs later. In causes of action, involving any
14 state commission, board or other agency, excluding counties, the sum recovered by
15 the claimant shall be paid out of any funds appropriated to such condemning agency.
16 Any judgment shall be appealable by either party and any amount recovered by the
17 body against which the claim was filed, arising from costs, counterclaims, punitive
18 damages or otherwise may be used as an offset to any amount owed by it to the
19 claimant, or may be collected in the same manner and form as any other judgment.

SECTION 9357. Initial applicability; Other.

21 (1) CONDEMNATION; APPEAL OF DENIED CLAIM FOR DAMAGES. The treatment of
22 section 32.20 of the statutes first applies to a conveyance of property to a condemnor
23 that is recorded on the effective date of this subsection.

24 (END)